IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHERMAN DIVISION

CIVIL ACTION NO
Jury Trial Demanded

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW, Plaintiff Centex Homes, files this Original Complaint against Defendants Cheldan Homes, LP, and OMS Management, LLC, and would show this Honorable Court as follows:

I.

PARTIES

- 1. Plaintiff Centex Homes ("Centex" or "Plaintiff") is a Nevada general partnership with its principal place of business in Dallas, Texas.
- 2. Defendant Cheldan Homes, L.P. ("Cheldan Homes" or "Defendant") is a limited partnership with its principal place of business in Fort Worth, Texas. It may be served by service of process upon its registered agent for service of process, Allen R. Goss, 6861 Corporation Parkway, Fort Worth, Texas 76216.
- 3. Defendant OMS Management, LLC ("OMS" or "Defendant") is the general partner for Cheldan and is registered to do business in the state of Texas, with its principal place of business in Fort Worth, Texas. It may be served by service of process upon its

registered agent for service of process, Allen R. Goss, 6861 Corporation Parkway, Fort Worth, Texas 76216.

II.

JURISDICTION AND VENUE

- 4. This action arises under the Copyright Act, 17 USC § 501 et seq. The Court has jurisdiction pursuant to 28 U.S.C. §1338 (a).
- 5. Venue is proper in the United States District Court for the Eastern District of Texas, Sherman Division, under 28 U.S.C. §1391 (b) and (c) and 28 U.S.C. §1400 because it is a judicial district in which Defendants reside or may be found and a substantial portion of the events giving rise to the claims herein occurred. Defendant used their infringing plans in the design and construction of homes in Anna, Collin County, Texas.

III.

FACTUAL BACKGROUND

- 6. Cheldan Homes is a Texas homebuilder with communities built or being built across Texas, including but not limited to Collin and Denton counties. OMS Management is the general partner of Cheldan Homes.
- 7. Centex is a national homebuilder with communities built and being built across the State of Texas, including but not limited to in Collin and Denton counties.
- 8. Centex has a well-deserved and hard-earned reputation for quality design and construction of homes. This reputation has been developed by over fifty years in the homebuilding business.
- 9. Centex retains experienced design professionals to design its homes and registers those designs as architectural works with the United States Copyright Office. In

2002, Centex created three of the four floor plans for single family homes (the "2002 Centex Works") that are at issue in this case. Each of these three architectural works was registered with the Copyright Office. The copyright registration information is as follows:

Title of Work	Registration Date	Copyright Registration No.
CTX 0270 (The Hancock)	February 3, 2004	VAu 611-090
CTX 0274 (The Hamilton)	February 3, 2004	VAu 611-088
CTX 0305 (The Triumph)	July 26, 2004	VAu 631-565

Copies of each of these registrations are attached hereto as EXHIBIT A-1 through A-3.

- 10. In 2005, Centex created another design, CTX 0509 (The Raleigh) (the "2005 Centex Work"). The 2005 Centex Work was registered on January 15, 2009 and is copyright registration no. VAu 978-729. A copy of the registration is attached hereto as EXHIBIT B.
- 11. In late February 2008, Centex became aware that Cheldan Homes was offering for sale to the public homes with floor plans that were identical or substantially similar to the 2002 Centex Works and 2005 Centex Work (collectively the "Centex Works").
- 12. By letter dated March 27, 2009, Centex demanded that Cheldan Homes cease and desist its improper use of the Centex Works in designing homes. After not receiving a response, counsel for Centex contacted Cheldan Homes and subsequently conferred with counsel for Cheldan Homes. Counsel admitted Cheldan Homes built 37 homes using plans copied from Centex (the "Infringing Plans"). He also admitted there were "similarities" between the Centex Works and the Infringing Plans, but no resolution was reached.

IV.

FEDERAL COPYRIGHT INFRINGEMENT

13. Plaintiffs hereby incorporate the allegations in paragraphs 1-12, above, as if fully set forth herein.

- 14. Centex is the owner of the Centex Works and, as such, has the exclusive right in the copyrighted Centex Works, including the exclusive right to display the copyrighted Centex Works, prepare derivative works based on the copyrighted work, distribute and/or offer for sale homes based on the Centex Works. Copyright Act, 17 USC §106.
- 15. Defendants' sale or offering for sale of homes designed by use of the Infringing Plans violates the exclusive rights of Centex under the Copyright Act and has damaged Centex. Defendants' actions were committed willfully, as they were aware of Centex's creation and ownership of the Centex Works, yet advertised and sold homes designed by use of the Infringing Plans and, upon information and belief, continue to offer such designs for sale.
- 16. Based on the actions of Defendants in using Infringing Plans to design homes and in continuing to use or to sell homes that used the Infringing Plans, Centex is entitled to permanent injunctive relief barring Defendants from advertising, distributing, selling or offering to sell homes designed by use of their Infringing Plans. Centex is also entitled to recover actual damages and any additional profits of Defendants in the sale of the Infringing Plans, or statutory damages for Infringing Plans that are copies or substantially similar to the 2002 Centex Works and enhanced statutory damages for Defendants' willful infringement of the 2002 Centex Works, as well as impoundment of the Infringing Plans. Further, Centex is entitled to recover attorney's fees.

WHEREFORE, Plaintiff Centex Homes respectfully requests that after a trial on the merits, the Court find in favor of Centex Homes, permanently enjoin Cheldan Homes from further use of the Infringing Plans, and award Centex its actual or statutory damages and

enhanced statutory damages as requested, attorney's fees as the prevailing party, pre- and post judgment interest as provided for by law, and costs of Court.

Respectfully submitted,

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Texas Bar No. 00787209

RICHARD LAW GROUP, INC.

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Dallas, TX 75225

(214) 206-4300 (phone)

(214) 206-4330 (fax)

Counsel for Plaintiff Centex Homes



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Register of Copyrights, United States of America

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VAu611-090



EFFECTIVE DATE OF REGISTRATION

FEB 03 2004

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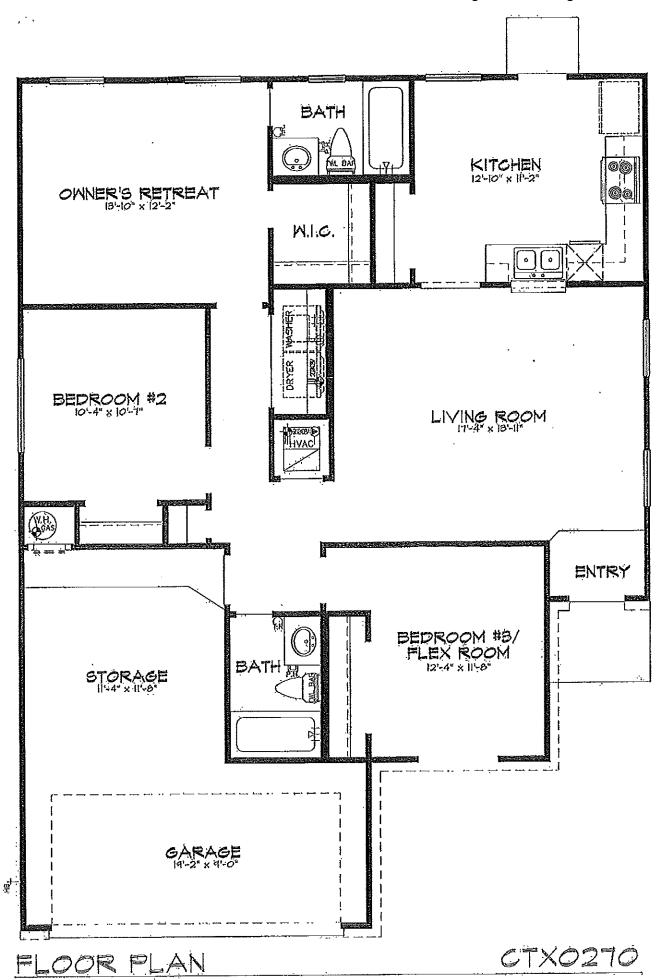
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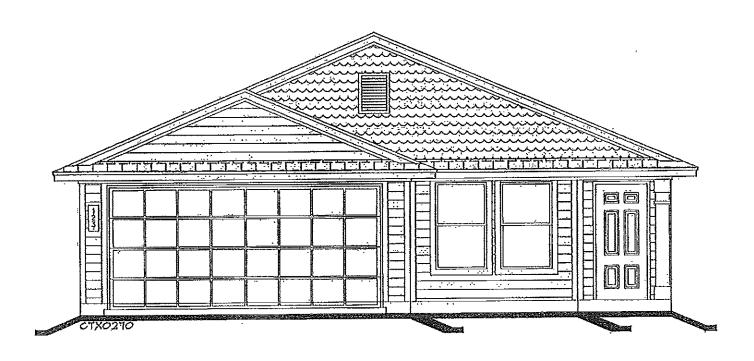


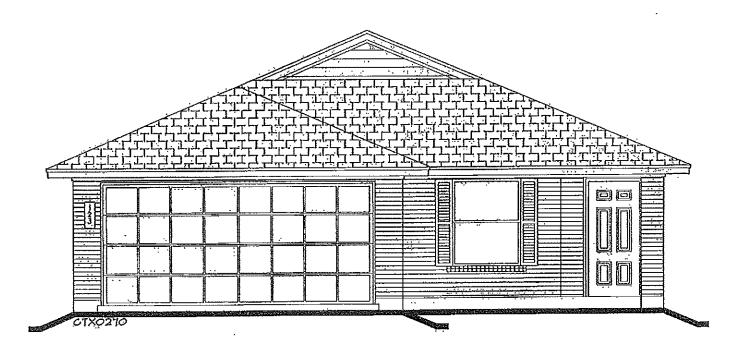
Single Family Submittal Form



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UNITED STATES COPYRIGHT OFFICE

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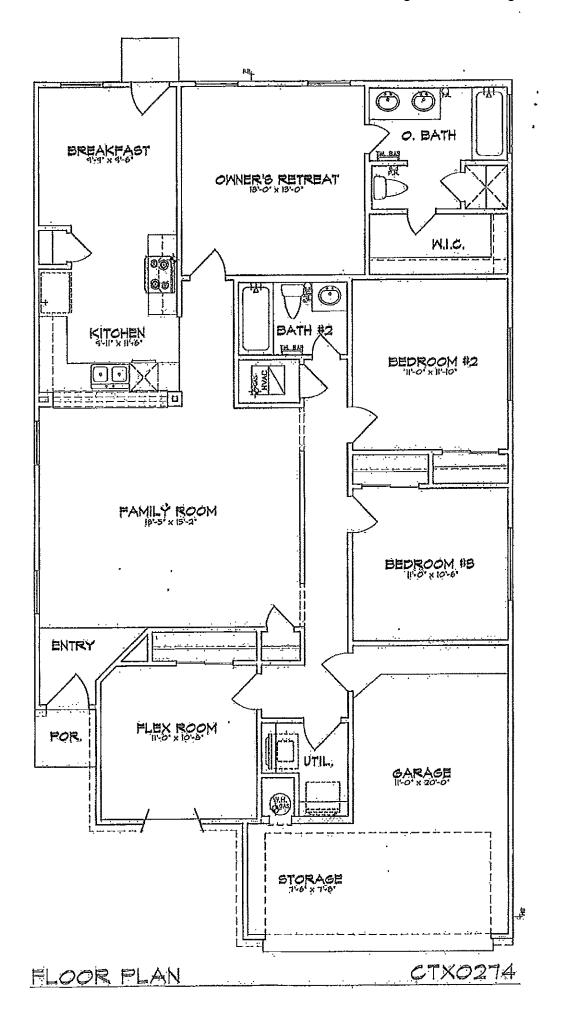
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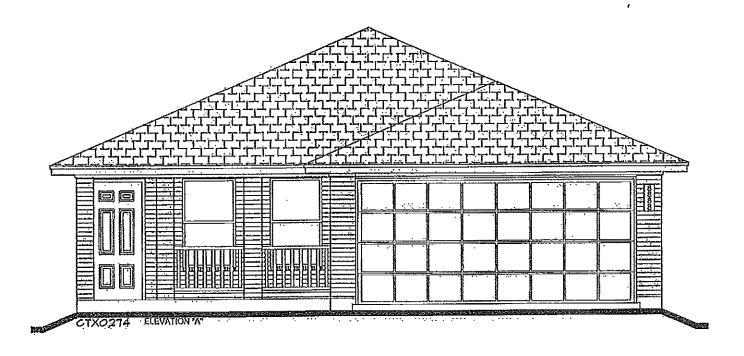
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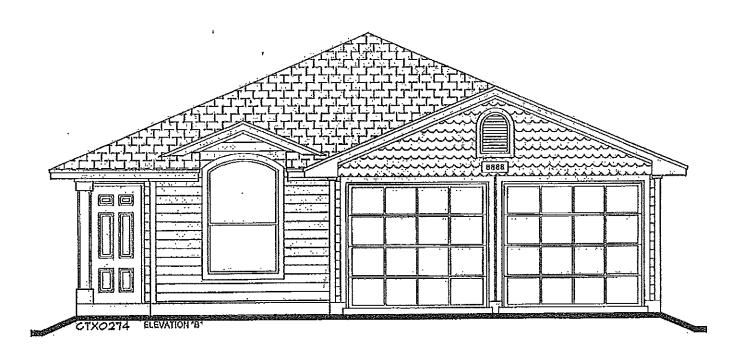
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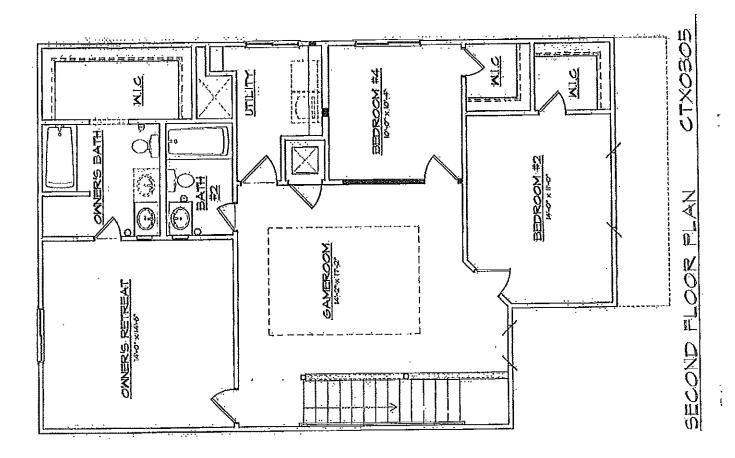
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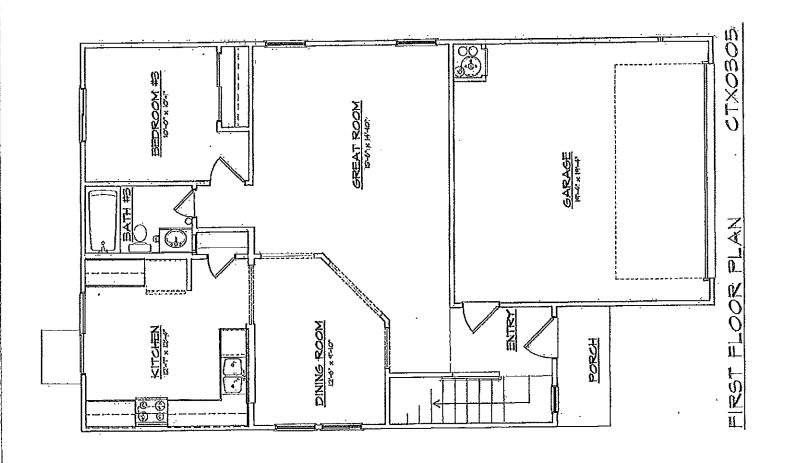
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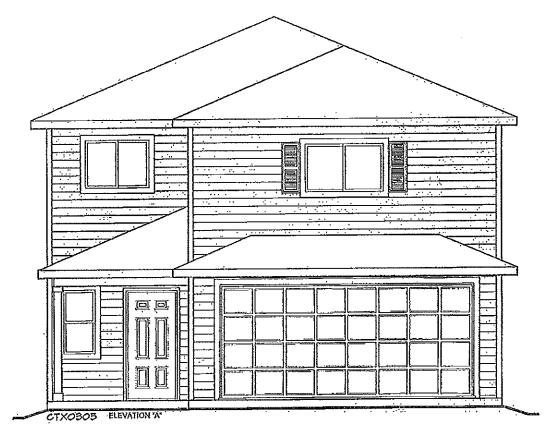
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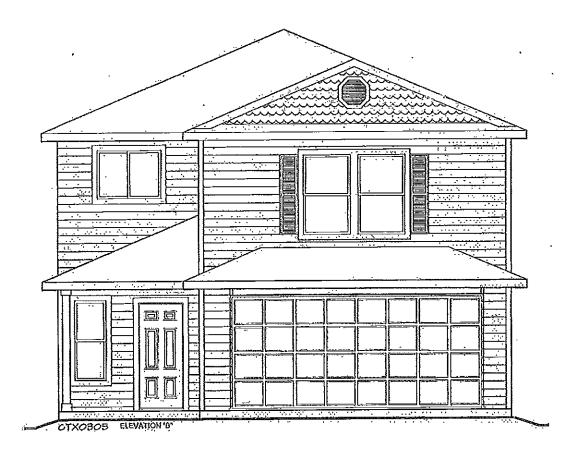
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Division	CENTRAL TEXAS -A	USTIN		4	
Satellite Office Name	Inkepryhlungénennunu.			5	
Plan Name	FJL-2043 TRIUMPH			Ġ	
Year of Plan Creation	2003		Baths	1.	THERE SHEET
Designed By (select one)	Clay Creel			2	Virginia and the
nesiBilen py (select olio)	Paul Knitter	**************************************		3	
				4	**********
	Norman Lei	**[5	
	Steve Peake				
	Joe Stein		Counce Stalls (adjust dub)	and 1/2	,
	David Whealley		Garage Stalls (select one)	0	*=== 7= -p=====
	Other-in house	*= 4		1	
	Olher-Outsource*	ابد من پر سام استان		2	
'If Other, enter name	ROLAND TORRES			3	,
Design Örligin	☐ Original or ✓	Derivation*		4	*******
*Parent Plan's Name	P40-2043			5	****
Product Line	SIERRA	. ,	Basement (select one)	None	X
Brick and Morter	Total B&M			Unfinished	
-	Less Permitting	***************************************		Finįshed	************
	Less Allocations		Density per Acre		4-5
	Less Model Deferred		Width (in decimal)		29
	Net	0	Depth (in decimal)		. 48
Top 5 Best Selling Plan	YES OR WNO	Year	Garage Access (selectione)	Front	7
Top 5 Best Selling Plan Product Status		1	, ,	Rear	15554444444
Division Status	Active or	Archived		Side	[]"""""
Plan Status (select one)	Conceptual Design]		Swing-In	₹ <u></u>
. in a mind factor aires	Design Development	- śńężna z żyślakie w m		Courtyard	<u> </u>
	First Construction			Detached	
	Working Drawings	77		None	***********
Sales Status (select one)	Brochules	**************************************	Master Bedroom (select one)	wod 🗍	V V UP
Dates Draras (spicor out)	Released		Square Footage		744 5.5 77
		1.7	Basement Finished Sq. Ft.	ann an an saide an	
	Ongoing Archive	7	Floor 1 Sq. Ft.		***************************************
Drafting	Atchive		Floor 2 Sq. Ft.		
	DOO.				·
Code Book	BOÇA		Flöor 3 Sg. Ft.		,
(select all that apply)	CABO	1	Total Square Footage		2043
	ÍBĊ		Garage Area	ra in was sales	400
	IRÇ		Federal Copyright		
	SBC		Already filed with FedCO	∐ YES	NÓ NÓ
	UBC	المجاربين	If Yes, Submittel Date	*********	
	Other	,	Submitted By	*******	-p-+-=±
Code Year	2003		Copyright Registration Date		***********
Code Other	,		Copyright Registration Number	40	
Drafting Consultent	SAN ANTONIO OFFIC	DE	(if No, the Centex Corporate offi	ce Will file the	Copy(ight)
Truss Engineer	CTX.				
Other Englineer	MLAW				
CdsPt Standards	`V. YES . □	NO			
Comments and additional in	formation	· ************************************	***************************************	हत्त्वस्य वयस्य स्थानस्थ 	كشافت تدعي تدميانيد ما إجراج يها





Case 4:09-cv-00288-ALM Document 1 Filed 06/22/09 Page 20 of 30 PageID #: 20







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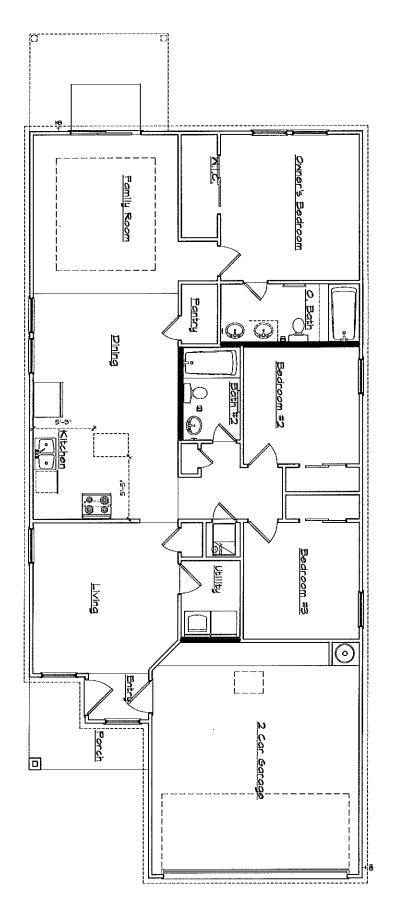
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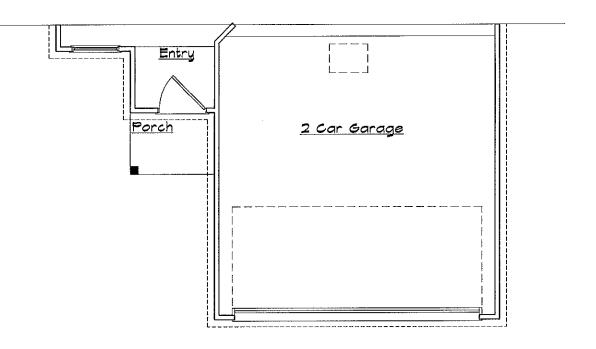
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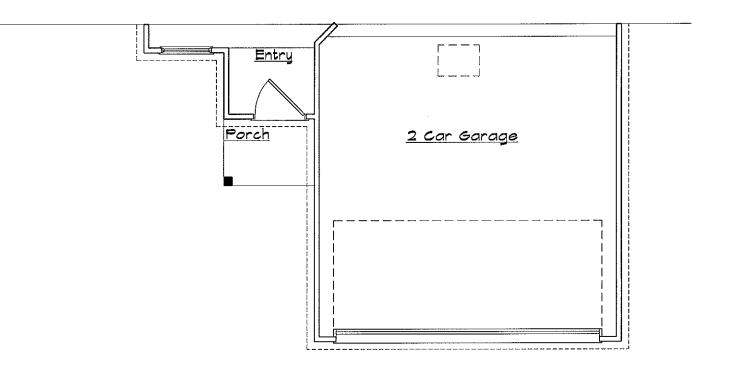


Floor Plan CTX0509



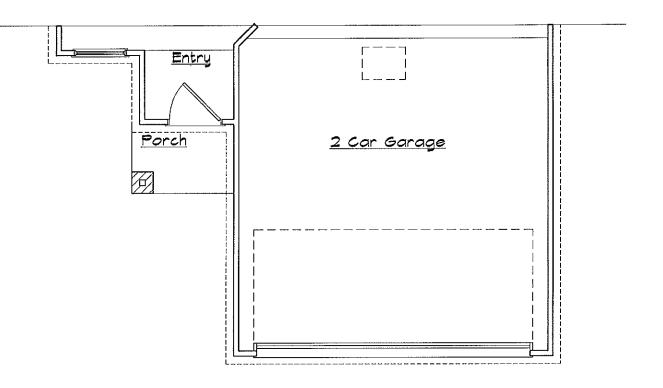
Partial Floor Plan





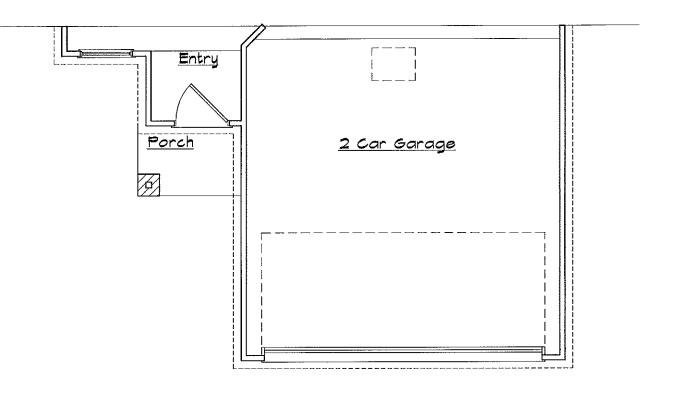
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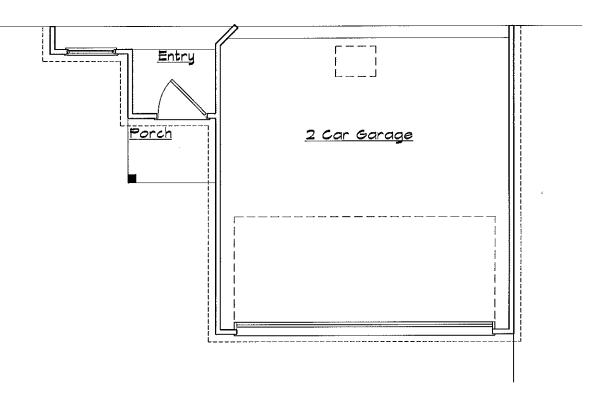
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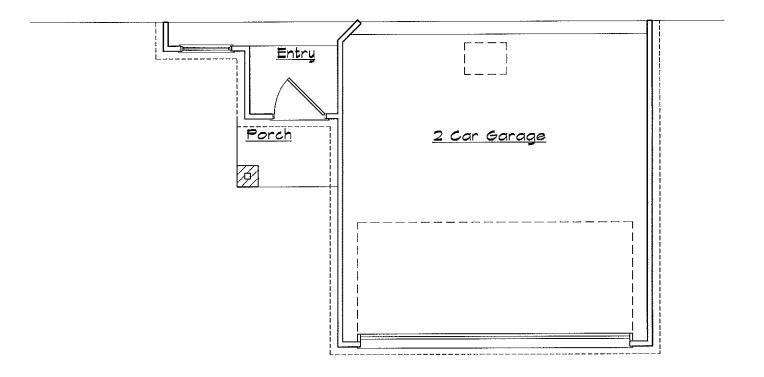
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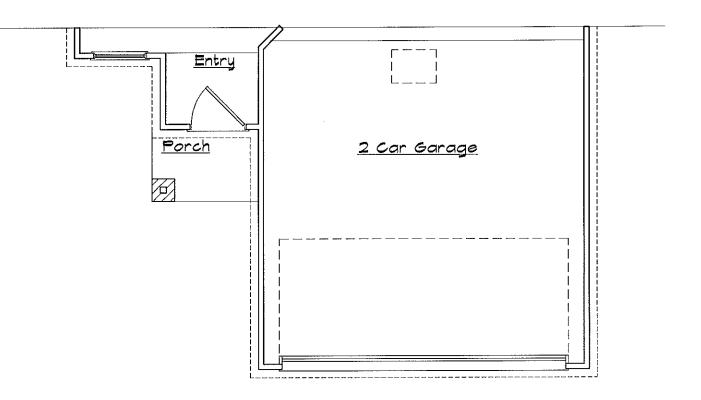
Partial Floor Plan





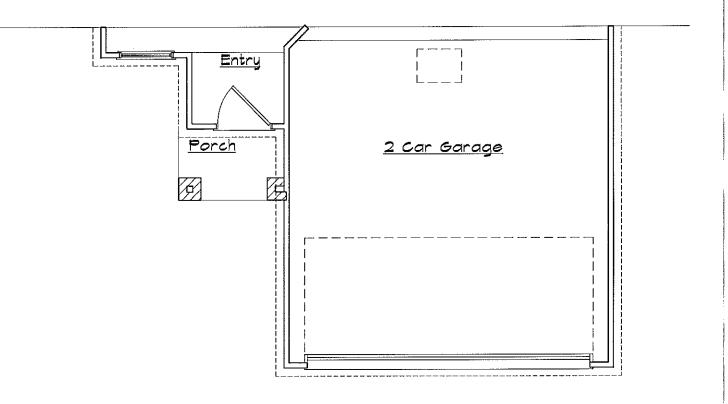
Partial Floor Plan





Partial Floor Plan





Partial Floor Plan

